

168

(74-A)

F.No.1(3)/2002/Vol.III/D(Pen/Pol)
Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare
New Delhi, 18th January, 2010

To

The Chief of the Army Staff
The Chief of the Naval Staff
The Chief of the Air Staff

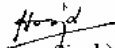
Subject: Entitlement Rules for Casualty Pensionary Awards to the Armed Forces Personnel, 2008.

Sir,

I am directed to say that the President is pleased to decide that with effect from 1st January, 2008 and in supersession of all previous orders on the subject, the Entitlement Rules set out in Appendix to the letter shall apply in cases of disablement or death of service personnel, who became non-effective on or after 1st January, 2008.

2. This issues with the concurrence of Ministry of Defence (Finance) vide their U.O. No.98/Fin/Pen/10 dated 15.1.2010.

Yours faithfully,


(Harbans Singh)
Director (Pen/Policy)

*18549
21-1
with avul.*

Copy to :-

1. The Secretary (Def/Fin)
2. The CGDA
3. DGAFMS
4. The PCDA(P), Allahabad
5. The PCDA(N), Mumbai
6. The CDA(AF), Subroto Park, New Delhi
7. The Director of Audit
8. D(Pen-A)/D(Pen/L)/D(PGC)
9. AGPS/AHQ
10. DPP&R, Air HQ/DPA, Air HQrs
11. DPA, Naval HQrs

167
(74-B)

**Appendix to Ministry of Defence letter
No.1(3)/2002/D(Pen/Pol) dated 18.1.2009**

**Entitlement Rules for Casualty Pensionary Awards
to Armed Forces Personnel, 2008**

1. (a) These Rules may be called Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 2008 and supersede the Entitlement Rules for Casualty Pensionary Awards to Armed Forces Personnel, 1982 as amended from time to time.

(b) These Rules shall be read in conjunction with the Guide to Medical Officers (Military Pension), 2008, as amended from time to time.

2. Cases of death/disablement of Cadets (Direct), due to causes attributable to or aggravated by military training shall be governed under the provisions contained in the Ministry of Defence letter No. 1(5)/93/D(Pen-C) dated 16th April, 1996, as amended from time to time in so far as entitlement of ex-gratia is concerned. However, the claims for ex-gratia award shall be governed in accordance with these Rules. A copy of the letter dated 16th April 1996 appended as **Annexure I** to these Rules.

3. **Extent of Application:**

These Rules do not apply in cases where disablement or death, on which the claim to casualty pensionary awards is based, took place (a) during the period 3rd September, 1939 to 31st March, 1948, which will be dealt with in accordance with the entitlement criteria laid down in **Annexure II**; and (b) during the period of emergency post-1948 which will be dealt with in accordance with **Annexure III** to these Rules.

4. **Invalidation from Service:**

(a) Invalidation from service with disablement caused by service factors is a condition precedent for grant of disability pension. However, disability element will also be admissible to personnel who retire or are discharged on completion of terms of engagement in low medical category on account of disability attributable to or aggravated by military service, provided the disability is accepted as not less than 20%.

(b) An individual who is boarded out of service on medical grounds before completion of terms of engagement shall be treated as invalidated from service.

(c) PBOR and equivalent ranks in other services who are placed permanently in a medical category other than SHAPE 1 or equivalent and are discharged because (i) no alternative employment suitable to their low medical category can be provided, or, (ii) they are unwilling to accept alternative employment, or, (iii) they having been retained in alternative employment are discharged before the completion of their engagement, shall be deemed to have been invalidated out of service.

5. **Medical Test at entry stage:**

The medical test at the time of entry is not exhaustive, but its scope is limited to broad physical examination. Therefore, it may not detect some dormant disease. Besides, certain hereditary constitutional and congenital diseases may manifest later in life, irrespective of service conditions. The mere fact that a disease has manifested during military service does not per se establish attributability to or aggravation by military service.

6. **Causal connection:**

For award of disability pension/special family pension, a causal connection between disability or death and military service has to be established by appropriate authorities.

7. **Onus of proof:**

Ordinarily the claimant will not be called upon to prove the condition of entitlement. However, where the claim is preferred after 15 years of discharge/retirement/invalidment/release by which time the service documents of the claimant are destroyed after the prescribed retention period, the onus to prove the entitlement would lie on the claimant.

8. **Post discharge claims:**

(a) Cases in which a disease was not present at the time of the member's retirement/discharge from service but arose within 7 years thereafter, may be recognized as attributable to service if it can be established by the competent medical authority that the disability is a delayed manifestation of a pathological process set in motion by service conditions obtaining prior to discharge.

(b) In cases where an individual in receipt of a disability pension dies within a period of 7 years from the date of release/retirement, may be considered to have died of the disease for which he was granted disability pension if it can be so established by the competent medical authority. If the medical certificate as to the cause of the death is not available, other factors and circumstantial evidence would be taken into account.

9. **Duty:**

For the purpose of these Rules, a person subject to the disciplinary code of the Armed Forces shall be treated on 'duty':

- (a) When performing an official task or a task failure to do which would constitute an offence, triable under the disciplinary code applicable to him.
- (b) When moving from one place of duty to another place of duty irrespective of the mode of movement.
- (c) During the period of participation in recreation and other unit/sports activities organized or approved by service authorities and during the period of traveling in relation thereto.

Note 1: Personnel of the Armed Forces participating in local/national/international sports tournaments as members of service teams; or mountaineering expeditions/gliding organized by service authorities, with the approval of Service HQs, shall be deemed to be 'on duty' for the purpose of these Rules.

Note 2: Personnel of Armed Forces participating in sports tournaments or in privately organized mountaineering expeditions of indulging in gliding as a hobby in their individual capacity, shall not be deemed to be 'on duty' for the purpose of these Rules, even though prior permission of the competent service authorities may have been obtained by them.

Note 3: Injuries sustained by personnel of the Armed Forces in impromptu games and sports which are organized by or with the approval of the local service authority and death or disability arising from such injuries, will be regarded as having occurred 'on duty' for the purpose of these Rules.

Note 4: The personnel of the Armed Forces deputed for training at courses conducted by the Himalayan Mountaineering Institute, Darjeeling and other similar institutes shall be treated at par with personnel attending other authorized professional courses or exercise for the Defence Services for the purpose of grant of disability/family pension on account of disability/death sustained during the courses.

- (d) When proceeding on leave/valid out pass from his duty station to his leave station or returning to duty from his leave station on leave/valid out pass.

Note 1: An Armed Forces personnel while traveling between his place of duty to leave station and vice-versa is to be treated on duty irrespective of whether he has availed railway warrant/concession vouchers/cash TA etc or not for the journey. This would also include journey performed from leave station to duty station in case the individual returns early.

Note 2: The occurrence of injury should have taken place in reaching the leave station from duty station or vice versa using the commonly available/adopted route and mode of transport.

(e) When traveling by a reasonable route from one's official residence to and back from the appointed place of duty, irrespective of the mode of conveyance (whether private or provided by the Government)

(f) Death or injury which occurs when an individual is not strictly 'on duty' e.g. on leave, including cases of death/disability as a result of attack by or action against extremists or anti social elements may also be considered attributable to service, provided that it involved risk which was due to his belonging to the Armed Forces and that the same was not a risk faced by a civilian. Death and disability due to personal enmity is not admissible.

Note: For the purpose of these Rules, leave shall include casual leave. Leave/casual leave shall not be treated as 'duty' except in situations mentioned above.

10. **Attributability:**

(a) **Injuries:**

In respect of accidents or injuries, the following rules shall be observed:

(i) Injuries sustained when the individual is 'on duty', as defined, shall be treated as attributable to military service, (provided a nexus between injury and military service is established).

(ii) In cases of self-inflicted injuries while 'on duty', attributability shall not be conceded unless it is established that service factors were responsible for such action.

(b) **Diseases:**

(i) For acceptance of a disease as attributable to military service, the following two conditions must be satisfied simultaneously:-

- (a) that the disease has arisen during the period of military service; and
 - (b) that the disease has been caused by the conditions of employment in military service.
- (ii) Diseases due to infection arising in service other than that transmitted through sexual contact shall merit an entitlement of attributability and where the disease may have been contracted prior to enrolment or during leave, the incubation period of the disease will be taken into consideration on the basis of clinical course as determined by the competent medical authority.
- (iii) If nothing at all is known about the cause of disease and the presumption of the entitlement in favour of the claimant is not rebutted, attributability should be conceded on the basis of the clinical picture and current scientific medical application.
- (iv) When the diagnosis and/or treatment of a disease was faulty, unsatisfactory or delayed due to exigencies of service, disability caused due to any adverse effects arising as a complication shall be conceded as attributable.

11. **Aggravation:**

A disability shall be conceded aggravated by service if its onset is hastened or the subsequent course is worsened by specific conditions of military service, such as posted in places of extreme climatic conditions, environmental factors related to service conditions e.g, Fields, Operations, High Altitudes etc.

12. **Competent Authorities:**

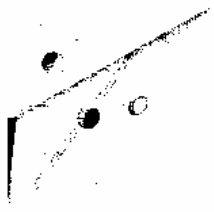
(a) **Attributability/Aggravation:**

(i) Injury Cases:

Decision regarding attributability/aggravation in respect of injury cases in invalidment/retirement or discharge would be taken by the Service HQrs. in case of officers and OIC Records in case of PBOR, for the purpose of casualty pensionary awards.

(ii) Disease Cases:

The decision regarding attributability/aggravation in respect of disease cases shall be taken by the Service HQrs in case of officers and OIC Records in case of PBOR on the basis of the findings of the RMB/IMB as approved by the next higher medical authority which would be treated as final and for life.



(b) **Assessment:**

(i) The assessment with regard to percentage of disability in both injury and disease cases as recommended by the Invaliding/Release Medical Board as approved by the next higher medical authority shall be treated as final and for life unless the individual himself requests for a review, except in the cases of disability/disabilities which are not of a permanent nature.

(ii) Where disablement is due to more than one disability, a composite assessment of the degree of disablement shall be made by reference to the combined effect of all such disabilities in addition to separate assessment for each disability. In case of overlapping disabilities, the composite assessment may not be the sum of individual disabilities.

(c) **Re-Assessment of Disability:**

There shall be no periodical review by Resurvey Medical Boards for re-assessment of disabilities except for disabilities which are not of a permanent nature, for which there shall be only one reassessment of the percentage by a Reassessment Medical Board. The percentage of disability assessed/recommended by the Reassessment Medical Board shall be final and for life unless the individual himself asks for a review.

13. **Death cases:**

(i) Due to injury – Decision regarding attributability/aggravation in respect of death in injury cases for grant of special family pension shall be taken by Service HQrs in case of officers/OIC Records in case of PBOR.

(ii) Due to disease – Decision regarding attributability/aggravation shall be taken by Service HQrs/OIC Records, as the case may be, on the basis of medical opinion of DGAFMS or such medical authorities as prescribed by him.

Note: In case of battle casualty, the awards for liberalized family pension shall be decided by the Pension Sanctioning Authority based on the casualty report published by the authorities concerned.

14. **Appeals:**

(I) (a) **First appeal:**

If a person is aggrieved by the denial of entitlement, he may, if he so desires, submit an appeal before Record Office/Service HQrs within six months, which would be considered by the Appellate Committee for First Appeal. The Appellate Committee's decision for upholding or rejecting the appeal will be by consensus.

(b) Second appeal:

Any person, aggrieved by the decision in the first appeal, may file a second appeal within six months of the decision of the Appellate Committee for First Appeal, to the Defence Minister's Appellate Committee on Pension (DMACP).

(II) The composition of the Appellate Committee for First Appeal and the Defence Minister's Appellate Committee on Pension and detailed procedures for disposal of appeals shall be issued by the Ministry of Defence from time to time.

Annex I
1602

No.1(5)/93/D(PEN-C),
Government of India, Bharat Sarkar
Ministry of Defence, Raksha Mantralaya,

New Delhi, dated April, 16, 1996.

To
The Chief of the Army Staff,
The Chief of the Naval Staff,
The Chief of the Air Staff,

Subject:-Scheme for grant of Ex-gratia Awards in cases of
Death/Disablement of Cadets(direct) due to causes
attributable to or aggravated by Military Training.

Sir,

I am directed to state that the President is pleased to sanction a scheme for grant of ex-gratia awards in respect of Cadets in the event of death/disablement due to causes attributable to or aggravated by the conditions of military training. The rates and other conditions for grant of these ex-gratia benefits shall be as laid down in the succeeding paragraphs.

2. Ex-Gratia Awards in cases of disablement : In cases of invalidment on medical grounds due to disabilities attributable to or aggravated by the conditions of military training, an ex-gratia award at the rate of Rs.375/- per month for life shall be admissible to the ex-cadets (except Service entry). In addition, a Disability Award on ex-gratia basis shall also be admissible to the ex-cadet at the rate of Rs.600/- per month for 100% disability, during the period of disablement. The amount of disability award shall be proportionately reduced when the degree of disablement is less than 100%. No disability award shall be payable in cases where the degree of disablement is less than 20% or the disablement has not been accepted as attributable to or aggravated by the conditions of military training.

3. Ex.gratia Awards in cases of Death : As per terms and conditions of recruitment, majority of the Cadets such as entries through INA, Ex-NDA and direct entries etc., are required to be bachelors and they cannot marry during the pre-commission training. However, in cases of entries such as Technical graduate entry/post graduate entry/Short Service Commission(tech.and Non-tech), Entry

contd/-

through the Army Cadet College (ACC) etc., marriage prior to pre-commission training is not a bar. In the event of death of a Cadet due to causes attributable to military training, the following ex-gratia awards shall be payable to the Next of Kin of the deceased Cadet depending on his marital status:-

(i) On death of married Cadet during training, Ex-gratia Award at the rate of Rs.600/-per month shall be admissible to the widow/children of the deceased Cadet. This award shall be payable to the widow until her death or re-marriage (with a person other than the real brother of the deceased Cadet), whichever is earlier. After death or disqualification of the widow on account of re-marriage, the ex-gratia award shall be payable to the sons/unmarried daughters (in the order of seniority in age) till they attain the age of 25 years. In case of unmarried daughter(s), the payment of ex-gratia award shall be stopped on her/their getting married.

In the absence of eligible widow/children, ex-gratia award shall be paid to the dependent parents as per rates given in the para 3(ii) below.

(ii) In case of unmarried/widower cadet with no children, ex-gratia award at the rate of Rs.375/-per month shall be payable to the dependent parent(s) of the deceased Cadet for life. In the absence of parents, the ex-gratia award shall be payable to the dependent brother(s)/unmarried sister(s) in the order of seniority in age, till they attain the age of 25 years. In case of unmarried sister(s), the payment of ex-gratia award shall be stopped on her/their getting married.

(iii) The ex-gratia award shall be payable to only one member of the family at a time.

(iv) In the event of death of an ex-cadet in receipt of disability award under para 2 above, Ex-gratia Awards at the above rates shall be admissible to the family of the deceased cadet provided that the death is caused by the disability sustained during military training which was accepted as attributable to or aggravated by the conditions of military training.

contd/-

4. Constant Attendance Allowance (CAA) : When the degree of disability is assessed at 100% and is accepted as attributable to or aggravated by the conditions of military service, Constant Attendance Allowance at the rate of Rs.300/- p.m. shall be admissible to the ex-Cadet on the recommendation of the Invaliding Medical Board.

5. No ex-gratia award under these instructions shall be payable if the death/disablement is neither attributable to nor aggravated by the conditions of military service/training.

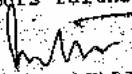
6. Other rules and procedure regarding assessment/re-assessment of disablement and acceptance of disability/death as attributable to or aggravated by conditions of military service/training in cases of cadets shall be the same as for regular Commissioned Officers of the Armed Forces. The procedure for sanction and conditions for grant of ex-gratia awards to the Next of Kin in case of deceased Cadets shall be same as in cases of casualties of regular Commissioned Officers due to attributable causes.

7. Awards under these instructions are being sanctioned purely on ex-gratia basis and the same shall not be treated as pension for any purpose. However, Dearness Relief shall be admissible on the Ex-gratia Awards sanctioned under para 2 & 3 of these instructions.

8. The provisions of this letter shall be applicable in cases of casualties occurring on or after 1.1.86.

9. This issues with the concurrence of the Finance Division of this Ministry vide their U.O.NO.607/Pen/96 dated 9.4.96.

Yours faithfully,



(P.K. KISHORE)

DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA.

Copy to:-

1. JS (Trg.&CAO), JS (G), JS (M), JS (AIF).

2. CGDA, New Delhi.

contd/-

- 3. CCDA (P), Allahabad.
- 4. CDA (PD), CDA (Navy), Bombay; CDA (Air Force), New Delhi and CDA (O) Pune, CDA (Air Force), Dabra Dun.
- 5. The Director General of Audit, Defence Services, New Delhi.
- 6. Army HQ/AG/PS-4.
- 7. Naval HQ/DPA.
- 8. Air HQ/DPP&R.
- 9. Director General of Resettlement.
- 10. Department of Pension & Pensioners' Welfare.
- 11. Department of Expenditure (EV Section).
- 12. Addl. FA (P) / DPA (Pen), Min. of Def (Fin/Pen).
- 13. D (Pen-A); D (Pen-C); D (Civ. II); D (GS-VI); D (Reg); PG Coll, D (Air-III), D (Navy-I), D (GS-II).
- 14. Director of Public Relations.
- 15. Editor-in-Charge, Sainik Samachar.
- 16. D (Hindi-IV) - for Hindi version.

ANNEXURE II

WARTIME RULES

No. 156121/4/P.P.3 (a)
General Headquarters
Adjutant General's Branch
HQ APO
New Delhi, 25th November, 1946

To
Headquarters all Commands, Divisions,
Brigades, Areas and Sub Areas
with sufficient copies for distribution to all medical officers,
Instructions for Medical Officers called upon to Sign Death
Certificates and for Medical Boards.

MEMORANDUM

1. New rules on entitlement to pensions were introduced for the Indian Army by A.I. (I) 43/45. Medical Boards will be held in accordance with these instructions which will be simplified or amended from time to time as may be found necessary. While not comprehensive, they are intended to be a guide so that medical officers may be enabled to give immediate effect to the alterations brought about by the new rules. Medical Officers should appreciate that not only has the old criteria been discarded but that the whole approach to the question of attributability has been changed and the changes explained below entail more accurate medical recording on their part and a more accurate appreciation of the various findings in each case.

2. Terms employed under the new rules - Hitherto the word "attributable" had an artificial meaning covering both "directly attributable" and "materially aggravated". In that sense, it has now been replaced by "due to" and "attributable" replace "directly attributable" as meaning "caused by".

The word "materially" and the words "to a material extent" have been omitted in reference to aggravation. Under the new rules worsening to any extent by service will be regarded as aggravation. The Ministry of Pensions test of the existence of aggravation in this sense will now apply to the Indian Army, namely there is held to be "aggravation" where effective service is found to have caused a degree of worsening in a previously existing condition resulting in discharge from service on account of that condition.

3. New method of approach to the question of entitlement- Though the principle that there must be a causal connection between the disability or cause of death and service is still preserved the question of supporting evidence is to be approached from a new angle. The Government of India will give full weight to two presumptions arising out of the fact that the man is opted for service during the present war in a certain medical category. These presumptions are:-

.....2/-

... 20 Jan 1972 addressed to DPMO.

- (1) That at the time of acceptance he was fit for the kind of service demanded of a man in that medical category, and
- (2) That in the event of his subsequently being discharged from the service on medical grounds any deterioration in his health which has taken place is due to his service.

While the medical services are not directly concerned with the making of these artificial presumptions, in future they must bear them in mind, since, in cases which, in their opinion, should be regarded as not attributable to military service, it will be necessary to record evidence sufficient to rebut one or both of these presumptions.

Presumption (1) itself does not lead to any conclusion of entitlement but approach to Presumption (2) will be affected as pre-emption (1) stands or falls. It is, therefore, necessary to record any evidence available which may affect Presumption (1). This may take the form of radiological or other evidence that the disease was of long standing or there may be evidence in the individual's medical history sheet or other medical documents. The history given by the individual on first admission to hospital may also be of importance.

Presumption (2) is the vital one. Unless there is contrary evidence attributability must be conceded. This contrary evidence may take the form of showing,

- (1) that no deterioration in health, persisting to date of discharge, occurred during service; or
- (2) that, where there has been persisting deterioration, the presumption that such deterioration is due to service is not well founded.

The mere fact that an individual has been invalidated does not necessarily mean that his health has deteriorated during service. The disability may have been discovered soon after joining and the individual discharged in his own interest in order to prevent deterioration. In such a case there may even be evidence of his condition worsening during service, but if treatment given before discharge restored the individual to his normal condition so that his discharge was on grounds of expediency to prevent a recurrence, no lasting damage was inflicted by service and there is no ground for conceding attributability. Again an individual may be found to be so weak mentally that it is impossible to make him an efficient soldier, this does not establish that his condition has worsened during service but only that it is worse than was realised on enrolment.

On the other hand, where there has been deterioration attributability must be conceded under presumption (2) unless there is evidence indicating that the presumption is not well founded. There may be direct evidence of the contraction of disability otherwise than by service, e.g. by infection while

at home on leave, and even then the question of aggravating by subsequent service will have to be considered. The difficulty will be greatest in those diseases regarded as constitutional and naturally progressive. Deterioration must be accepted as due to service unless there is evidence to the contrary including as evidence a consensus of medical opinion regarding the particular disability or the group of disabilities to which it belongs. It will thus be seen that a claim to pension will not be rejected unless presumption (2) is shown to be ill founded by written or other reliable evidence or such a consensus of medical opinion as amounts to reliable evidence.

In other words, the Government of India must be satisfied that there are reasonable grounds before any case is rejected and it will be for the medical officers concerned with the case to put forward all the medical evidence available which may have a bearing on the final decision.

4. Procedure to be adopted by Medical Boards:- It is obvious that with the new approach to the question of attributability, the present method of completing the invaliding roll must be considerably altered. At present, there are not sufficient particulars recorded regarding many of those invalided from service on account of disease to allow of a correct decision on entitlement to pension under the new criteria. It should be realised that all cases will be subject to review and it may be necessary to reverse the decision in those cases recommended for rejection of the claim to pension where the supporting evidence is insufficient. Phrases such as "equally common in civil life" will no longer have any force and should not be used except in cases of diseases which run their course independently of external circumstances; see paragraph 6(c) below. Until it is found possible to issue a revised form of invaliding roll IAPY.1948, the procedure therefore will be as follows:-

- (1) On page 5 of the invaliding roll, the medical officer in charge of the case should first of all give a concise history of invaliding disability as complete as possible clearly specifying the station of origin, e.g. field service area or peace station. The duration of the disability and the circumstances in which it arose may have a vital bearing on the case. Such particulars may possibly be obtained from the individual documents. The medical notes made when the individual first fell ill are of special importance as not only do they frequently show the pathological state of the disease when it first came to notice enabling a deduction to be made as to its probable duration but they often contain a statement as to the history prior to that date. Such information may be of more value than statements made at the time of invalidment when the question of a disability pension has arisen. Where relevant a short note should be added regarding defects noted

.....4/-

on enrolment, family history, other illness during or prior to service. This all important history of the case should be followed by ;

- (ii) The diagnosis of the disability, about which there should be no serious doubt and an exact description of the clinical conditions present. This description should not necessarily be detailed but should make clear any features likely to assist the board in forming an opinion on the question of attributability and on the assessment of disablement. Notes on laboratory, X-ray findings etc., should be included when necessary and specialists reports on the case may be of value. Where the medical officer-in-charge of the case has considered that the individual was non-co-operative or has retarded his cure or that he was malingering, a note to that effect should invariably be recorded for the information of the board.
- (iii) Finally, whether there was neglect, delay, faulty technique or lack of reasonable skill in service medical treatment, or the exigencies of service, before, during or after the treatment could be held to have caused or aggravated the condition, these should be recorded as on these grounds alone a presumption of aggravation through service may be made if deterioration thereby resulted.
- (iv) On page 6 of IAFY-1948. In addition the words "in the hope of obtaining pension or gratuity" should be deleted from question (8). Bearing in mind that decisions contrary to the opinion of the medical board may be given on review, the percentages of disablement should be carefully assessed in all cases and entered at question (5).

5. Death certificates.- IAFY.393 Part III; in which the medical officer records his opinion regarding attributability should likewise in future contain more details of the cause of death. As a rule, not only the immediate cause of death but also the underlying disease should be noted. In the case of infectious disease it may be relevant to note the incubation period of the particular disease, eg. when the individual may have contracted the disease while on leave or prior to enrolment. It is specially important

in death cases to note whether neglect, delay, faulty technique or lack of reasonable skill** in service medical treatment can be held responsible for untoward outcome, or the exigencies of service before, during or after the treatment can be held to have caused or hastened death. The presumption already referred to will apply equally in cases of death. It should be clearly stated whether the individual died overseas or in India in a hospital or at home as a result of disease contracted overseas, or whether he died in a peace station of disease contracted in such station.

**N.B.--Should a recognised complication of the normally accepted methods of treatment properly prescribe and administered, occur, then that complication is regarded as NOT attributable to service.

6. Notes on common diseases.-- It may be advisable at a later date in issue detailed guidance regarding certain diseases. In the meantime the following notes may in some cases, be helpful. They contain the ideas of the Ministry of Pensions formed from their experience in applying the new principles in the U.K. The Ministry of Pensions state that the position regarding psychoneurosis is not yet sufficiently clear to make a pronouncement so that medical officers should use their own discretion in expressing an opinion on attributability in such cases for the present.

(a) Common diseases known to be affected by exposure to weather.-- Diseases such as Bronchitis, rheumatism and nephritis-- indeed most diseases of the respiratory system, joints and kidneys are affected by climatic conditions and here the man's condition has worsened during service, the presumption that this worsening was caused or aggravated by service would be well founded, unless the service was of such short duration or the conditions of service were so good that it would be quite unreasonable to grant entitlement to pension.

(b) Common diseases known to be affected by stress and strain.-- If the individual has given reasonable service in a branch of the service where physical effort or other strain can be assumed the presumption that deterioration is due to service can be regarded as well founded. This refers particularly to pulmonary tuberculosis and certain heart conditions. It may be that in an exceptional case the man has been engaged on sedentary duties and the presumption would not then usually apply.

(b) Diseases which run their course independently of external circumstances.--- There are certain diseases which would have run the same course whether the member had been in the service or not. Such cases if equally common in civil life will not be accepted as aggravated by war service unless it is clear that owing to the exigencies of his service the man did not receive medical treatment of a satisfactory character and standard or such treatment was so delayed as to be less effective than it should have been.

(c) Infectious diseases.--- Death or disablement resulting from infectious disease other than venereal disease contracted during service will be regarded as attributable to military service. Where the disease may have been contracted prior to enrolment or during leave, the question of determining the incubation period in a particular case will arise and an opinion on this point should be expressed.

(e) Venereal diseases.--- Presumption (2) is not regarded as applying in the case of venereal disease, having regard to the way in which the disease is normally acquired; similarly the question of onus of proof does not arise. Cases of venereal disease or later manifestations of sequelae thereof will, therefore, only be accepted as attributable.

(i) If the disease has been contracted in the course of duty e.g., by a doctor or medical orderly.

(ii) If, having contracted disease during service, the man after treatment has returned to full duty and has been subjected to such strain as has produced one of the after-effects of the disease sooner than would normally have been the case.

(iii) If, having contracted the disease prior to enrolment, the man has been subjected to such strain as has produced or hastened a later manifestation of the disease.

Note 1. ---For the purposes of (b) and (c), the strain must be due to service and of such a degree as is unlikely to be met in civil life, and it must be clear that the later manifestation was in fact produced or hastened

by that strain, if, however, the man had reached an age when such a manifestation could be expected, the case is difficult for acceptance.

Note 2.-- A member engaged on clerical duties would not normally be subjected to any such strain, and it may be taken as axiomatic that no sedentarily employed man could establish a claim to pension save in the most exceptional circumstances.

(iv) If the disease is due to heredity and the latter manifestation is produced or hastened by conditions of the man's service (the normal considerations as to giving the benefit of doubt apply).

(v) If the disease existed before enrolment and death results from treatment given with a view to making the man an efficient soldier.

(vi) If the disease was contracted during service and death results from faulty technique in treatment.

NOTE 1.--In case of disease contracted during service should the man advance the argument that owing to the exigencies of his service he did not receive treatment when he ought to have received it, such argument will be treated with reserve.

NOTE 2.-- "Faulty technique in treatment" implies the use of drugs obviously wrong or contra-indicated, an unreasonably low or high dosage, procedures not generally recognised as correct or the lack of proper precautions.

Medical Boards will always record their opinion with reasons in support, as to whether the disease is congenital or was contracted before or after enrolment.

The general principle underlying the provisions of this sub-para is that when the disease is either hereditary or contracted by sexual contact either before or during service, entitlement for the disease itself can never be granted. Such entitlement can only be given

for a later manifestation or sequela of the disease which has been precipitated or whose onset has been hastened by the stress of service in the Army.

(6) Service employment similar to civil employment. Where the man's employment in the service, e.g., a lorry driver, is the same as his pre-service civil employment, and it is clear that there has been deterioration during service, the similarity of employment is not a sufficient ground for rejecting a claim to pension on the plea that the risks to health were not increased by service. That would be equivalent to giving the same weight to the possibility of deterioration in civil life as to the fact that deterioration took place in the service. This argument cannot be maintained. Where, however, the disease is one that could not be influenced by employment as, e.g., a clerk, the case is different.

7. In conclusion, it is necessary to reiterate that where a medical officer considers that a case is not attributable to military service, the evidence on which the opinion is based must be clearly stated whether this takes the form of certain facts peculiar to the case or well known features regarding the disease in question.

8. G.H.Q. memoranda Nos 106122/1/AG 14(b), dated 20th July 1944 and 106123/3/R.P.3(a) dated 6th July 1945, are hereby cancelled.

ANNEXURE III

ENTITLEMENT RULES FOR THE DISABILITY AND SPECIAL FAMILY PENSIONARY AWARDS IN RESPECT OF ALL RANKS OF THE ARMED FORCES DURING EMERGENCY

Period of Emergency	Government of India letter
8 Sep 62 to 9 Jan 68	- A/01927/AG/PS-4(a)/9948/Pen-C dated 26 Dec 62
3 Dec 71 to 31 Mar 72 25 Mar 71 to 31 Mar 72 (Op Cactus Lily)	- A/01927/AG/PS-4(d)/11130/Pen-C dated 16 Dec 71
15 Aug 71 to 31 Mar 72 (Naval personnel)	- FN/3948/1191/Pen-C dated 1 Feb 72

Entitlement to disability or family pensionary awards in respect of all ranks of the Armed Forces eligible for pension under the Military Rules, disablement or death, shall be accepted as due to service, if -

- (a) the disablement is due to a wound, injury or disease, which
 - (i) is attributable to service; or
 - (ii) existed before or arose during service and has been, or remains aggravated thereby.
- (b) the death was due to or hastened by -
 - (i) a wound or injury or disease which was attributable to service; or
 - (ii) the aggravation by service of a wound, injury or disease which existed before or arose during service.

2. In dealing with these cases, the benefit of reasonable doubt will be given to the claimant. The entitlement shall be denied only if it can be established beyond reasonable doubt that the conditions mentioned above are not fulfilled.

3. Where an injury or disease, which led to discharge or death during service, was not noted in a medical report or other appropriate enrolment papers prepared at the time of commencement of the individual's service, fulfilment of the conditions mentioned in para 1 above may be accepted unless there is a positive evidence to the contrary.

4. Where there is no note in contemporary official records of a material fact on which the claim is based, other reliable corroborative evidence of that fact may be accepted.

N.B. - "Service" means service in the Armed Forces during emergency rendered anywhere in India.

Special proforma should be attached to the DMB proceedings of all ranks to provide additional information with DMB letter No. 16033/PS/MS/1971 dated 28 Jan 72, subject C. 200175

CLASSIFICATION OF DISEASES

A. Diseases affected by climatic conditions

1. Pulmonary tuberculosis
2. Pulmonary oedema
3. Pulmonary tuberculosis with pleural effusion
4. Tuberculosis (non-pulmonary)
5. Bronchitis
6. Pleurisy, Emphysema, Lung abscess, and Bronchiectasia
7. Lobar Pneumonia
8. Nephritis (acute and chronic)
9. Otitis media
10. Rheumatism (acute and chronic)
11. Arthritis
12. Myalgia
13. Lumbago
14. Local effects of severe cold climate-i.e., frost bite, trench foot and chilblains
15. Effects of hot climate-i.e., heat stroke and heat exhaustion

B. Diseases affected by stress and strain

1. Psychosis and Psychoneurosis
2. Hypertension (B.P.)
3. Pulmonary tuberculosis
4. Pulmonary tuberculosis with pleural effusion
5. Tuberculosis (non-pulmonary)
6. Mitral stenosis
7. Pericarditis and adherent pericardium
8. Endocarditis
9. Sub-acute bacterial endocarditis, including infective endocarditis
10. Myocarditis (acute and chronic)
11. Valvular diseases
12. Myocardial infarction, and other forms of IHD
13. Cerebral haemorrhage and cerebral infarction
14. Peptic ulcer

C. Diseases affected by dietary compulsions

1. Infective hepatitis (Jaundice)
2. Diseases of stomach and duodenum
3. Worm infestation and particularly guinea worm and round worm infections
4. Gastritis
5. Food poisoning, especially due to tinned food

146
Diseases affected by service in flying duties

1. Otitic barotrauma
2. Altitude decompression sickness
3. Hypoxia
4. Explosive decompression
5. Long duration G

Diseases not normally affected by service

1. Malignant diseases (Cancer and carcinoma)
2. Sarcoma (except in cases of sarcoma of bone with a history of injury, due to service, on the site of development of the growth)
3. Epithelioma
4. Rodent ulcer
5. Lympho-sarcoma
6. Lymphomas except of viral aetiology
7. Leukaemia (except radiation effect)
8. Pernicious anaemia (Addison's disease)
9. Osteitis deformans (Paget's disease)
10. Gout
11. Acromegaly
12. Cirrhosis of the liver - if alcoholic

Eyes

13. Error of refraction
14. Hypermetropia
15. Myopia
16. Astigmatism
17. Presbyopia
18. Glaucoma - acute or chronic - unless there is a history of injury due to service or of disease of the eye due to service.